Remarks

The Office Action mailed March 24, 2006 has been carefully reviewed and the foregoing amendments have been made in consequence thereof.

Applicants thank the Examiner and Supervisory Examiner Joseph Thomas for the telephonic interview on July 12, 2006 with Jason Gross and Robert Reeser, III, representatives of the Applicants. Both parties discussed the present claim language in relation to the cited references, in particular the Gary Meyer reference, *Computer-Guided FMLA Administration*, HRMagazine, Vol. 42, Issue 5, pg. 45, May 1997 ("Meyer"). Applicants argued that the pending claims are patentable over the references. No decision was made, but Examiners suggested that the Applicants propose claim amendments that addressed the Examiners' concerns with Meyer.

Claims 1-31, 36-38 and 40-43 are pending in this application. Claims 1-34, 36-38 and 40-44 stand rejected. Claims 32-35, 39 and 44 have been cancelled.

In accordance with 37 C.F.R. 1.136(a), a one-month extension of time is submitted herewith to extend the due date of the response to the Office Action dated March 24, 2006, for the above-identified patent application from June 24, 2006, through and including July 24, 2006. Authorization to charge a deposit account in the amount of $120.00 to cover this extension of time request also is submitted herewith.

The rejection of Claims 1-34, 36-38 and 40-44 under 35 U.S.C. § 103(a) as being unpatentable over Grimse et al. (U.S. Patent No. 6,269,355) ("Grimse") and Meyer in view of Deborah Kweller, *Absence-Mgr.com Upgraded to Account for Family Medical Leave Act Requirements*, Business Wire, Feb. 16, 2000 ("Kweller"), and further in view of Kahn et al. (U.S. Patent No. 6,401,079) ("Kahn") is respectfully traversed.

Applicants respectfully submit that none of Grimse, Meyer, Kweller, or Kahn considered alone or in combination, describe or suggest the claimed invention. As discussed below, at least one of the differences between the cited references and the present invention is that none of

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Grimse, Meyer, Kweller, or Kahn, alone or in combination, describe or suggest a method for processing and tracking requests for leave under the Family Medical Leave Act (FMLA) using a web-based computer system configured with at least one server which includes an employee FMLA database, and a plurality of client systems networked to the at least one server, wherein the method includes displaying on a first client system at least one web page including a FMLA leave request form, and prompting a requester to enter request data directly into the FMLA leave request form wherein the requester includes at least one of an employee and a representative of the employee, and the request data includes information relating to a reason for a FMLA leave request, a name of the employee and a name of an employer.

Moreover, Applicants respectfully submit that none of Grimse, Meyer, Kweller, or Kahn, considered alone or in combination, describe or suggest a method that includes automatically uploading the FMLA leave request form with the request data from the first client system to the server wherein the server is associated with the employer, determining at the server whether the employee is eligible to receive a conditional approval of the FMLA leave request form, and automatically downloading the conditional approval from the server to the first client system for viewing by the requester.

Furthermore, Applicants respectfully submit that none of Grimse, Meyer, Kweller, or Kahn, considered alone or in combination, describe or suggest a method that includes automatically downloading the conditional approval and a medical certification form to a second client system associated with a medical provider identified by the requester, displaying on the second client system at least one web page including the conditional approval and the medical certification form, prompting the medical provider to enter medical data directly into the medical certification form displayed on the second client system wherein the medical data includes a recommendation relating to the reason for the FMLA leave request, entering the medical data directly into the medical certification form by the medical provider via the second client system, and automatically uploading a completed medical certification form from the second client system to the server for storage in the FMLA database.

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Additionally, Applicants respectfully submit that none of Grimse, Meyer, Kweller, or Kahn, considered alone or in combination, describe or suggest a method that includes comparing, at the server, the request data entered by the requester to the medical data entered by the medical provider and determining whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider, and transmitting from the server a final approval or disapproval to the requester at the first client system after performing the data comparison at the server.

Grimse describes a system and method for guiding a user through a complex process having a plurality of steps. The system permits a user with little or no knowledge of the process to complete the process. The guidance system includes a logical structure which models the process steps within the process and guidance pages which provide the user with additional information about how to proceed through the process. The guidance pages have one or more page fragments and each page fragment is dynamically generated based on certain preconditions so that the guidance pages are easily customizable.

For example, Grimse describes a decision matrix (100) that can be used to help a manager determine when employee leave under the Family Medical Leave Act (FMLA) is justified. In this example, there may be Federal law, State law, company policy and a collective bargaining agreement (shown in rows 101 of the matrix) all of which may influence the decision about whether the employee is entitled to paid leave under the FMLA. A number of columns (102) of the matrix list factors which help to answer the question. The columns may contain the most restrictive factors at the left side of the matrix and the least restrictive factors at the right side of the matrix. The system may ask questions to the user about the employee and then, based on the decision matrix, make the appropriate decision for the user without the user having to understand the applicable laws and the like. The decision matrix guides a user through a process about which the user may have little or no personal knowledge. The decision matrix may also include guidance pages which provide the user with additional information to resolve the problem and complete the process.

Meyer describes a specially designed computer program referred to as FMLA Pro that helps organizations stay in compliance with the many laws and regulations of the Family Medical Leave Act. FMLA Pro is a Windows-based system that automates administration of the FMLA. This software product is a reference source for comprehensive information about the FMLA and enables an employer to process and track employee leave activity covered by the Act.

Kweller is an article that describes a computer system referred to as the Absence Manager, which is an Internet-based system that helps employers track, communicate and manage employee absenteeism. According to the article, the Absence Manager has been updated to include features that enable employers to manage certain employer requirements under the Family Medical Leave Act (FMLA). For example, the system allows an employee or managers and supervisors to record absences at the time they occur or are reported. According to the article, the Absence Manager is a tool that replaces the commonly found process of supervisors recording absences on desktop calendars or other miscellaneous scraps of paper.

Kahn describes a system that provides an automated, centralized back-end payroll service with a full-featured web-based payroll system. It further describes a feature that allows a user of the system to approve all individual timesheets for the pay period for the employees and contractors in the selected payroll group and to approve all paychecks for the pay period for the employees and contractors in the selected payroll group.

Claim 1 recites a method for processing and tracking requests for leave under the Family Medical Leave Act (FMLA) using a web-based computer system configured with at least one server which includes an employee FMLA database, and a plurality of client systems networked to the at least one server, the method includes "displaying on a first client system at least one web page including a FMLA leave request form...prompting a requester to enter request data directly into the FMLA leave request form, the requester including at least one of an employee and a representative of the employee, the request data including information relating to a reason for a FMLA leave request, a name of the employee and a name of an employer, wherein the first client system is associated with the requester...automatically uploading the FMLA leave request

form with the request data from the first client system to the server, wherein the server is associated with the employer...determining, at the server, whether the employee is eligible to receive a conditional approval of the FMLA leave request form...automatically downloading the conditional approval from the server to the first client system for viewing by the requester...automatically downloading the conditional approval and a medical certification form to a second client system associated with a medical provider identified by the requester...displaying on the second client system at least one web page including the conditional approval and the medical certification form...prompting the medical provider to enter medical data directly into the medical certification form displayed on the second client system, the medical data including a recommendation relating to the reason for the FMLA leave request...entering the medical data directly into the medical certification form by the medical provider via the second client system...automatically uploading a completed medical certification form from the second client system to the server for storage in the FMLA database...comparing, at the server, the request data entered by the requester to the medical data entered by the medical provider and determining whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider...and transmitting from the server a final approval or disapproval to the requester at the first client system after performing the data comparison at the server."

None of Grimse, Meyer, Kweller, or Kahn, considered alone or in combination, describe or suggest the method recited in Claim 1. More specifically, none of Grimse, Meyer, Kweller, or Kahn, considered alone or in combination, describe or suggest a method for processing and tracking requests for leave under the Family Medical Leave Act (FMLA) using a web-based computer system configured with at least one server which includes an employee FMLA database, and a plurality of client systems networked to the at least one server, wherein the method includes displaying on a first client system at least one web page including a FMLA leave request form, and prompting a requester to enter request data directly into the FMLA leave request form wherein the requester includes at least one of an employee and a representative of

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the employee and the request data includes information relating to a reason for a FMLA leave request, a name of the employee and a name of an employer.

Moreover, none of Grimse, Meyer, Kweller, or Kahn, considered alone or in combination, describe or suggest a method that includes automatically uploading the FMLA leave request form with the request data from the first client system to the server, determining at the server whether the employee is eligible to receive a conditional approval of the FMLA leave request form, and automatically downloading the conditional approval from the server to the first client system for viewing by the requester.

Furthermore, none of Grimse, Meyer, Kweller, or Kahn, considered alone or in combination, describe or suggest a method that includes automatically downloading the conditional approval and a medical certification form to a second client system associated with a medical provider identified by the requester, displaying on the second client system at least one web page including the conditional approval and the medical certification form, prompting the medical provider to enter medical data directly into the medical certification form displayed on the second client system wherein the medical data includes a recommendation relating to the reason for the FMLA leave request, entering the medical data directly into the medical certification form by the medical provider via the second client system, and automatically uploading a completed medical certification form from the second client system to the server for storage in the FMLA database.

Additionally, none of Grimse, Meyer, Kweller, or Kahn, considered alone or in combination, describe or suggest a method that includes comparing at the server the request data entered by the requester to the medical data entered by the medical provider and determining whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider, and transmitting from the server a final approval or disapproval to the requester at the first client system after performing the data comparison at the server.

Rather, Grimse describes an automated process guidance system and method that utilizes a logical structure for modeling the process steps within the process and guidance pages which provide the user with additional information about how to proceed through the process; Meyer describes a Windows-based computer program referred to as FMLA Pro that helps organizations stay in compliance with the Family Medical Leave Act by providing a reference source for information about the FMLA, and enabling an employer to process and track employee leave activity covered by the Act; Kweller describes an Internet-based system referred to as the Absence Manager that enables an employee or managers and supervisors to record absences at the time they occur or are reported as required by the Family Medical Leave Act (FMLA); and Kahn...

Although Grimse describes using the automated process guidance system for an employee leave process under the Family Leave Act, Grimse does not describe or suggest displaying on a first client system at least one web page including a FMLA leave request form, and prompting a requester to enter request data directly into the FMLA leave request form, wherein the requester includes at least one of an employee and a representative of the employee and the request data includes information relating to a reason for a FMLA leave request, a name of the employee and a name of the employer. Rather, Grimse merely describes a decision matrix (100) that can be used to help a manager determine when employee leave under the Family Medical Leave Act (FMLA) is justified. The matrix described in Grimse includes columns containing the most restrictive factors at the left side of the matrix and the least restrictive factors at the right side of the matrix. The system asks questions to the user about the employee and then, based on the decision matrix, make the appropriate decision for the user without the user having to understand the applicable laws and the like.

Moreover, Grimse does not describe or suggest automatically uploading the FMLA leave request form with the request data from the first client system to the server wherein the server is associated with the employer, determining at the server whether the employee is eligible to

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receive a conditional approval of the FMLA leave request form, and automatically downloading the conditional approval from the server to the first client system for viewing by the requester.

Furthermore, Grimse does not describe or suggest automatically downloading the conditional approval and a medical certification form to a second client system associated with a medical provider identified by the requester, displaying on the second client system at least one web page including the conditional approval and the medical certification form, prompting the medical provider to enter medical data directly into the medical certification form displayed on the second client system wherein the medical data includes a recommendation relating to the reason for the FMLA leave request, and automatically uploading a completed medical certification form from the second client system to the server for storage in the FMLA database.

Additionally, Grimse does not describe or suggest comparing at the server the request data to the medical data to determine whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider, and transmitting from the server a final approval or disapproval to the requester at the first client system after performing the data comparison at the server.

As to Meyer, although Meyer describes a Windows-based computer program that helps organizations stay in compliance with the Family Medical Leave Act, Meyer does not describe or suggest displaying on a first client system at least one web page including a FMLA leave request form, and prompting a requester to enter request data directly into the FMLA leave request form, wherein the requester includes at least one of an employee and a representative of the employee and the request data includes information relating to a reason for a FMLA leave request, a name of the employee and a name of the employer.

Moreover, Meyer does not describe or suggest automatically uploading the FMLA leave request form with the request data from the first client system to the server wherein the server is associated with the employer, determining at the server whether the employee is eligible to receive a conditional approval of the FMLA leave request form, and automatically downloading

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the conditional approval from the server to the first client system for viewing by the requester. In fact, Meyer merely describes a system that is utilized by a company's Human Resources Department for tracking employee leave requests. Meyer does not describe a system that enables a requester to upload a FMLA request form to an employer.

Furthermore, Meyer does not describe or suggest automatically downloading the conditional approval and a medical certification form to a second client system associated with a medical provider identified by the requester, displaying on the second client system at least one web page including the conditional approval and the medical certification form, prompting the medical provider to enter medical data directly into the medical certification form displayed on the second client system wherein the medical data includes a recommendation relating to the reason for the FMLA leave request, and automatically uploading a completed medical certification form from the second client system to the server for storage in the FMLA database.

Additionally, Meyer does not describe or suggest comparing at the server the request data to the medical data to determine whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider, and transmitting from the server a final approval or disapproval to the requester at the first client system.

Furthermore, Kweller and Kahn do not make up for the deficiencies of Grimse or Meyer.

Accordingly, Applicants respectfully submit that Claim 1 is patentable over Grimse and Meyer in view of Kweller and further in view of Kahn.

For at least the reasons set forth above, Applicants respectfully submit that Claim 1 is patentable over Grimse and Meyer in view of Kweller and further in view of Kahn.

Claims 2-12 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2-12 are considered in combination with the recitations of Claim 1,

Applicants submit that dependent Claims 2-12 likewise are patentable over Grimse and Meyer in view of Kweller and further in view of Kahn.

Claim 13 recites a system for facilitating processing and tracking of requests under the Family Medical Leave Act (FMLA), the system includes "a first computer associated with a requester, the requester including at least one of an employee and a representative of the employee…a second computer associated with a medical provider identified by the requester…a server associated with an employer further comprising…an employee FMLA request database…and a plurality of FMLA forms designed to accept data relating to a request for a leave under the FMLA…and a network connecting said server to said computers, said server configured to…display on the first computer the plurality of said forms including a FMLA leave request form…prompt the requester to enter request data directly into the FMLA leave request form including information relating to a reason for a FMLA leave request, a name of the employee and a name of the employer…receive the FMLA leave request form with the leave data from the first computer…determine whether the employee is eligible to receive a conditional approval of the FMLA leave request form…automatically download the conditional approval to the first computer for viewing by the requester…automatically download the conditional approval and a medical certification form to the second computer…display on the second computer the conditional approval and the medical certification form…prompt the medical provider to enter medical data directly into the medical certification form displayed on the second computer, the medical data including a recommendation relating to the reason for the FMLA leave request…receive a completed medical certification form containing medical data directly entered into the medical certification form by the medical provider from the second computer for storage in the FMLA database…compare the request data entered by the requester to the medical data entered by the medical provider to determine whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider…and transmit a final approval or disapproval to the requester at the first computer after performing the data comparison."

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Claim 13, as herein amended, recites a system for facilitating processing and tracking of requests under the Family Medical Leave Act (FMLA) comprising, among other things, a server configured to perform steps essentially similar to those recited in Claim 1. Thus, it is submitted that Claim 13 is patentable over the combination of Grimse, Meyer, Kweller, and Kahn for reasons that correspond to those given with respect to Claim 1.

For at least the reasons as set forth above, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of Claim 13 be withdrawn.

Claims 14-31 depend from independent Claim 13 which is submitted to be in condition for allowance. When the recitations of Claims 14-31 are considered in combination with the recitations of Claim 13, Applicants submit that dependent Claims 14-31 are also patentable over Grimse and Meyer in view of Kweller and further in view of Kahn.

Claims 32-34 have been cancelled.

Claim 36 recites an apparatus for processing and tracking of requests under the Family Medical Leave Act (FMLA) that includes "means for storing a plurality of FMLA forms...means for displaying on a first client system at least one FMLA form including a FMLA leave request form...means for prompting a requester to enter request data directly into the FMLA leave request form, the requester including at least one of an employee and a representative of the employee, the request data including information relating to a reason for a FMLA leave request, a name of the employee and a name of an employer, wherein the first client system is associated with the requester...means for automatically uploading the FMLA leave request form with the request data from the first client system to a server, wherein the server is associated with the employer...means for determining whether the employee is eligible to receive a conditional approval of the FMLA leave request form...means for automatically downloading the conditional approval from the server to the first client system...means for automatically downloading the conditional approval and a medical certification form to a second client system associated with a medical provider identified by the requester...means for displaying on the

second client system the conditional approval and the medical certification form...means for prompting the medical provider to enter medical data directly into the medical certification form displayed on the second client system, the medical data including a recommendation relating to the reason for the FMLA leave request...means for entering the medical data directly into the medical certification form by the medical provider via the second client system...means for automatically uploading a completed medical certification form from the second client system to the server for storage...means for comparing at the server the request data entered by the requester to the medical data entered by the medical provider to determine whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider...and means for transmitting from the server a final approval or disapproval to the requester at the first client system after performing the data comparison at the server."

Claim 36, as herein amended, recites an apparatus for processing and tracking of requests under the Family Medical Leave Act (FMLA) that includes means for performing steps essentially similar to those recited in Claim 1. Thus, it is submitted that Claim 36 is patentable over the combination of Grimse, Meyer, Kweller, and Kahn for reasons that correspond to those given with respect to Claim 1.

For at least the reasons as set forth above, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of Claim 36 be withdrawn.

Claims 37-38 depend from independent Claim 36 which is submitted to be in condition for allowance. When the recitations of Claims 37-38 are considered in combination with the recitations of Claim 36, Applicants submit that dependent Claims 37-38 are also patentable over Grimse and Meyer in view of Kweller and further in view of Kahn.

Claim 40 recites a computer program embodied on a computer readable medium for processing and tracking requests for leave under the Family Medical Leave Act (FMLA), the program having a code segment that "displays on a first client system at least one web page

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including a FMLA leave request form...prompts a requester to enter request data directly into the FMLA leave request form, the requester including at least one of an employee and a representative of the employee, the request data including information relating to a reason for a FMLA leave request, a name of the employee and a name of an employer, wherein the first client system is associated with the requester...automatically uploads the FMLA leave request form with the request data from the first client system to the server, wherein the server is associated with the employer...determines at the server whether the employee is eligible to receive a conditional approval of the FMLA leave request form...automatically downloads the conditional approval from the server to the first client system for viewing by the requester...automatically downloads the conditional approval and a medical certification form to a second client system associated with a medical provider identified by the requester...display on the second client system at least one web page including the conditional approval and the medical certification form...prompts the medical provider to enter medical data directly into the medical certification form displayed on the second client system, the medical data including a recommendation relating to the reason for the FMLA leave request...receives the medical data entered directly into the medical certification form by the medical provider via the second client system...automatically uploads a completed medical certification form from the second client system to the server for storage in the FMLA database...compares at the server the request data entered by the requester to the medical data entered by the medical provider to determine whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider...and transmits from the server a final approval or disapproval to the requester at the first client system after performing the data comparison at the server."

Claim 40, as herein amended, recites a computer program programmed to perform steps essentially similar to those recited in Claim 1. Thus, it is submitted that Claim 40 is patentable over the combination of Grimse, Meyer, Kweller, and Kahn for reasons that correspond to those given with respect to Claim 1.

For at least the reasons as set forth above, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of Claim 40 be withdrawn.

Claims 41-43 depend from independent Claim 40 which is submitted to be in condition for allowance. When the recitations of Claims 41-43 are considered in combination with the recitations of Claim 40, Applicants submit that dependent Claims 41-43 are also patentable over Grimse and Meyer in view of Kweller and further in view of Kahn.

Claim 44 has been cancelled.

In addition to the above arguments, the rejection of Claims 1-34, 36-38 and 40-44 under 35 U.S.C. § 103(a) as being unpatentable over Grimse and Meyer in view of Kweller and further in view of Kahn is further traversed on the grounds that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify Grimse using the teachings of Meyer, Kweller, and Kahn. More specifically, as is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such
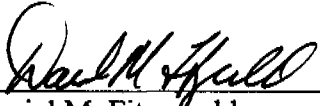
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references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

None of Grimse, Meyer, Kweller, or Kahn, considered alone or in combination, describe or suggest the claimed combination. Rather, these present Section 103 rejections are based on a combination of teachings selected from multiple references in an attempt to arrive at the claimed invention. Since there is no teaching, suggestion or motivation for the combination of Grimse, Meyer, Kweller, or Kahn, this Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection of Claims 1-34, 36-38 and 40-44 be withdrawn.

For at least the reasons set forth above, Applicants respectfully request that the rejection of Claims 1-34, 36-38 and 40-44 under 35 U.S.C. § 103(a) be withdrawn.

In view of the foregoing amendments and remarks, all the Claims now active in the application are believed to be in condition for allowance. Favorable action is respectfully solicited.

Respectfully Submitted,

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